

Legal Requirements for a Scoping Document Oroville Facilities Relicensing (FERC Project No. 2100)

A. NEPA

"Scoping" is defined for NEPA purposes in the CEQ regulations as: "an early and open process for determining the issues to be addressed and identifying the significant issues related to a proposed action." [the relicensing by FERC of the Oroville Facilities] (40 C.F.R. Section 1501.70)

Requirements: Invite participation by government agencies, tribes and other interested parties, identify issues to be analyzed in depth, eliminate issues which are not significant, identify other environmental review or consultation requirements, and identify timing of environmental review, planning and decisionmaking.

Scope: Range of actions, alternatives and impacts to be considered in an EIS, including: (1) all connected actions, cumulative actions, and similar actions; (2) alternatives and (3) impacts. (Section 1508.25)

B. CEQA

The CEQA Guidelines require a Notice of Preparation. Sent to agencies and interested parties. (Section 15082)

Contents: Description of the project or action, location, probable environmental effects.

Section 15083 describes the value of scoping:

Identifying the range of actions, alternatives, mitigation and effects to be analyzed in the EIR, eliminating issues found not to be important.

Effective in bringing together and resolving concerns of the government agencies and other interested parties.

C. FERC Scoping Requirements

The ALP regulations require the cooperative scoping of environmental issues (including necessary scientific studies), the analysis of completed studies and any further scoping. (18 C.F.R. Section 4.34(i)(3)(iii))

The FERC Relicensing Handbook states:

"During the scoping process, the applicant and stakeholders identify the need for scientific studies. Factors that would be considered in determining the need for studies be the same as in the traditional process . . ." (p. 4-7)

"Studies done by applicant must be forward-looking, concentrating on desirable and feasible conditions for environmental resource protection, mitigation, and enhancement, as well as developmental interests such as optimum power production." (3-11)

Two criteria for studies:

"Whether the requested study is reasonable and necessary in relation to the resources goals and management objectives of the resource agencies. And

"Whether it is generally accepted practice to use the study method requested by the agency or tribe." (3-12)

For instance, recreation studies should be designed to identify current and future recreation needs and how those needs can be best met. (3-17)

The Commission will be looking at comprehensive resource planning and, as appropriate, basin-wide consideration of resources. (3-18)